

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ANYWHERECOMMERCE, INC. and
BBPOS LIMITED,

Plaintiffs,

v.

INGENICO INC., INGENICO CORP.,
and INGENICO GROUP SA,

Defendants.

Civil Docket No: 1:19-cv-11457-IT

**PLAINTIFFS' CONSENTED MOTION FOR LEAVE TO FILE REPLY IN FURTHER
SUPPORT OF THEIR MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

Plaintiffs AnywhereCommerce, Inc. and BBPOS Limited, by and through counsel, and with the consent of Defendants, request leave of Court to file a Reply in Further Support of Their Motion to Compel Production of Documents and, in support thereof, state as follows:

1. On March 30, 2020, the Court held a conference with the parties regarding a discovery dispute with respect to the applicability of French data privacy laws (referred to as the “GDPR”) to the discovery in this case. During the conference, the Court permitted briefing on the issue, to be initiated by a motion to compel by Plaintiffs.
2. On April 6, 2020, Plaintiffs filed their Motion to Compel the Production of Documents (the “Motion”). Defendants filed an Opposition to Plaintiffs’ Motion (the “Opposition”) on April 13, 2020.
3. Under Local Rule 7.1(b)(3), replies in further support of motions may only be submitted with leave of court.

4. Here, there exists good cause for the Court to permit Plaintiffs to file a reply because Defendants have proposed a form of relief that is untimely, unrelated to the current discovery dispute, and has never before been raised with Plaintiffs or the Court.

5. Specifically, Defendants propose that the Court limit discovery to the issue of whether the statute of limitations bars some or all of Plaintiffs' claims. That has absolutely nothing to do with the GDPR, data privacy, or any other matters at issue in this discovery dispute. Rather, Defendants casually seek to slip in an extraordinary limitation on Plaintiffs' right to discovery without any warning, chance to meet and confer, or opportunity for briefing. Defendants could have (and should have) proposed this as part of the Rule 16 conference in August 2019 – they did not. Defendants could have (and should have) objected on this ground in response to Plaintiffs' December 2019 discovery requests – they did not. Defendants could have (and should have) brought this up during the March 30, 2020 Court conference regarding the instant dispute – they did not do that either.

6. In light of the surprise proposal, and with the consent of Defendants, Plaintiffs request leave to file a reply in further support of their Motion. Attached as Exhibit A is the reply Plaintiffs wish to file in the event that the Court grants them leave to do so.

WHEREFORE, Plaintiffs AnywhereCommerce, Inc. and BBPOS Limited request that the Court grant them leave to file a Reply in Further Support of Their Motion to Compel Production of Documents.

Respectfully submitted this 15th day of April, 2020,

/s/ Daniel Carmeli
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CERTIFICATION UNDER LOCAL CIVIL RULE 7.1(A)(2)

I certify that I met and conferred with opposing counsel in a good faith effort to resolve or narrow this issue. Defendants have consented to the filing of this Motion.

/s/ Daniel Carmeli

CERTIFICATE OF SERVICE

I certify that on this 15th day of April, 2020, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Daniel Carmeli